

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #5	CCRB Case #: 201903016	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/21/2019 6:43 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 9/21/2020	EO SOL 5/8/2021	
Date/Time CV Reported Mon, 04/01/2019 9:23 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/08/2019 11:04 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM John Pedersen	03352	951026	067 PCT
2. POM Nicholas Schiraldi	26039	958061	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Sean Parkes	03760	952093	067 PCT
2. POM Amine Azeddine	20237	958278	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM John Pedersen	Abuse: Police Officer John Pedersen threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
B.POM Nicholas Schiraldi	Abuse: Police Officer Nicholas Schiraldi threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.POM John Pedersen	Abuse: Police Officer John Pedersen entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
D.POM Nicholas Schiraldi	Abuse: Police Officer Nicholas Schiraldi entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On April 1, 2019, § 87(2)(b) filed this complaint with IAB via telephone, generating original log number 2019-12856. On April 8, 2019, IAB forwarded this complaint to the CCRB.

On March 21, 2019, at approximately 6:43 p.m., § 87(2)(b) was inside his apartment, located on § 87(2)(b) Avenue in Brooklyn. § 87(2)(b)'s mother, § 87(2)(b) arrived at the apartment with Police Officers John Pedersen and Nicholas Schiraldi, both of the 67th Precinct. § 87(2)(b) opened the unlocked apartment door and entered the apartment. PO Pedersen and PO Schiraldi pointed their Tasers at § 87(2)(b) (**Allegations A and B: Abuse of Authority**, § 87(2)(g) PO Schiraldi and PO Pedersen entered § 87(2)(b)'s apartment, followed by other officers (**Allegations C and D: Abuse of Authority**, § 87(2)(g) § 87(2)(b) voluntarily agreed to be transported to § 87(2)(b) for mental health treatment, § 87(2)(b)

The investigation obtained video footage of this incident from § 87(2)(b)'s mobile phone (**Board Review 01, summarized at Board Review 19**), PO Pedersen's body worn camera (**Board Review 02, summarized at Board Review 20**), and PO Schiraldi's body worn camera (**Board Review 03, summarized at Board Review 21**). The investigation obtained additional BWC footage from PO Azeddine's body worn camera (**Board Review 15**), PO Pedersen's body worn camera (**Board Review 16**), and § 87(2)(b)'s mobile phone (**Board Review 17**). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer John Pedersen threatened § 87(2)(b) with the use of force.

Allegation (B) Abuse of Authority: Police Officer Nicholas Schiraldi threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified (**Board Review 04**) that, prior to the date of incident, he had been diagnosed with bipolar disorder, had twice been hospitalized for psychiatric treatment, and had been prescribed medication but did not take this medication regularly. At the time of the incident, § 87(2)(b) was lying down inside his apartment, and saw § 87(2)(b) step into the apartment without warning. § 87(2)(b) immediately stood up, stepped towards § 87(2)(b) and stood one pace in front of § 87(2)(b) but did not take any other actions. § 87(2)(b) looked through the open door of his apartment and saw PO Pedersen and PO Schiraldi standing in the hallway with their Tasers pointed at his chest or head.

§ 87(2)(b) reported (**Board Review 05**) that she informed PO Pedersen and PO Schiraldi that, although § 87(2)(b) had been diagnosed as bipolar and had previously been hospitalized, he had never been violent or non-compliant. § 87(2)(b) cautioned PO Pedersen and PO Schiraldi that § 87(2)(b) could be loud. § 87(2)(b) entered § 87(2)(b)'s apartment in front of the officers. § 87(2)(b) immediately stood up and yelled at § 87(2)(b) but did not approach § 87(2)(b). § 87(2)(b) did not report that § 87(2)(b) made any threats while yelling. § 87(2)(b) then complained that an officer was holding a Taser, prompting § 87(2)(b) to look back and see that an officer was pointing his Taser at § 87(2)(b).

The 911 documentation associated with this incident (**Board Review 08**) indicates that the dispatcher relayed to the officers only that § 87(2)(b) was bipolar, off his medication, and non-violent.

PO Pedersen confirmed (**Board Review 06**) that the transmission from the dispatcher specified that

the emotional disturbed person at the address was non-violent. He confirmed that, in his conversation with § 87(2)(b) before approaching § 87(2)(b)'s apartment, she did not tell him that § 87(2)(b) had a history of being violent or non-compliant. When § 87(2)(b) opened the door and entered § 87(2)(b)'s apartment, PO Pedersen immediately saw that § 87(2)(b) stood up and yelled at § 87(2)(b). PO Pedersen could see that § 87(2)(b) was not holding anything in his hands. PO Pedersen did not testify that § 87(2)(b) made any threats while yelling, and could only recall him yelling, "This is crazy!" § 87(2)(b) did not do anything that PO Pedersen assessed to be physically aggressive. PO Petersen drew his Taser because § 87(2)(b) was yelling. PO Pedersen could not recall if he pointed his Taser at § 87(2)(b). PO Pedersen re-holstered his Taser after a few seconds.

PO Schiraldi could not recall if § 87(2)(b) told him and PO Pedersen that § 87(2)(b) had any history of violence (**Board Review 07**). He recounted that, when § 87(2)(b) opened the door and entered § 87(2)(b)'s apartment, he could not see § 87(2)(b) but heard § 87(2)(b) begin to yell. PO Schiraldi did not testify that § 87(2)(b) made any threats while yelling. PO Schiraldi immediately drew his Taser and pointed it through the doorway. PO Schiraldi drew and pointed his Taser because § 87(2)(b) was yelling and because he could not see if § 87(2)(b) was holding anything. PO Schiraldi believed that PO Pedersen also pointed his Taser at § 87(2)(b) but he could not recall with certainty. § 87(2)(b) stepped around a corner and gesticulated with his hands. PO Schiraldi saw that § 87(2)(b) was not holding anything and immediately re-holstered his Taser. PO Schiraldi described § 87(2)(b)'s walking toward the door while yelling as physically aggressive, but did not further explain this assessment. PO Schiraldi later saw kitchen knives in the apartment, including on § 87(2)(b)'s bed, but he did not see the knives until after he had holstered his Taser and entered the apartment.

The officers' BWC footage did not capture any portion of their conversation with § 87(2)(b) in front of the building, their entry into the building, and their journey to § 87(2)(b)'s apartment door. Due to the audio buffer on the BWCs, the footage depicting the time in which the officers pointed their Tasers at § 87(2)(b) lacked audio.

PO Pedersen's BWC footage (**Board Review 02**) begins with the officers in the common hallway outside § 87(2)(b)'s apartment door at 00:00. § 87(2)(b) opens the door and steps inside while PO Schiraldi stands directly outside the doorway. PO Pedersen stands on PO Schiraldi's right side. At approximately 00:15, § 87(2)(b) comes into view from deeper within the apartment. At that time, both officers draw their Tasers and point them at § 87(2)(b). PO Pedersen releases the safety switch on his Taser, causing it to shine both a white flashlight and a red laser pointer. PO Schiraldi's Taser never appears to shine a flashlight or laser pointer. At different points, the red laser dot from PO Pedersen's Taser is visible on § 87(2)(b)'s chest and abdomen. At approximately 00:30, both officers appear to holster their Tasers. The audio in the clip begins shortly after the officers holster their Tasers. At that point, § 87(2)(b) is not yelling, and he tells the officers in a quiet tone of voice that they had frightened him.

§ 87(2)(g) . § 87(2)(g)
§ 87(2)(b)'s cellphone footage did not begin until after the officers holstered their Tasers.

§ 87(2)(g)
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§ 87(2)(g)

NYPD Patrol Guide Procedure 221-08 (**Board Review 09**) states that a Taser “should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s).” Active aggression is defined as a threat or overt act of assault, which reasonably indicates that an assault or injury to any person is imminent. The appropriateness of the use of a Taser should be assessed, in part, based on the “[a]ctions taken by the subject” and the “[i]mmmediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders.”

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer John Pedersen entered § 87(2)(b) in Brooklyn.

Allegation (D) Abuse of Authority: Police Officer Nicholas Schiraldi entered 1080 § 87(2)(b) in Brooklyn.

It is undisputed that PO Schiraldi and PO Pedersen entered § 87(2)(b)'s residence immediately after they holstered their Tasers. It is also undisputed that § 87(2)(b) told the officers that she did not live at § 87(2)(b)'s residence.

§ 87(2)(b) reported that she informed PO Pedersen and PO Schiraldi that § 87(2)(b) had been diagnosed as bipolar, was not taking medication, and had previously been hospitalized, but did not give the officers any other information about § 87(2)(b)'s mental condition. § 87(2)(b) also informed PO Pedersen and PO Schiraldi that § 87(2)(b) was § 87(2)(b) years old and that she did not live with him. § 87(2)(b) did not tell or show PO Pedersen and PO Schiraldi that she possessed a key to § 87(2)(b), and she did not give any other information about her access to the residence. § 87(2)(b) led PO Pedersen and PO Schiraldi through the unlocked front door of § 87(2)(b) and through the unlocked door to § 87(2)(b)'s apartment.

PO Pedersen testified that § 87(2)(b) informed the officers that § 87(2)(b) had been diagnosed with schizophrenia and had not been taking his psychiatric medication. PO Pedersen could not recall if § 87(2)(b) provided any further information about § 87(2)(b)'s mental history, such as whether he had been previously hospitalized. § 87(2)(b) told the officers that she did not reside with § 87(2)(b). PO Pedersen recounted that § 87(2)(b) led the officers into § 87(2)(b) by using a key to open both the front door of the building and the door of § 87(2)(b)'s apartment.

PO Schiraldi testified that § 87(2)(b) informed the officers that § 87(2)(b) was “having problems,” but he could not recall any further details of the conversation. PO Schiraldi could not recall whether § 87(2)(b) told the officers that she resided with § 87(2)(b). § 87(2)(b) led the officers into § 87(2)(b) and entered § 87(2)(b)'s apartment, but PO Schiraldi could not recall if § 87(2)(b) used a key to open the doors to the building and the apartment.

PO Schiraldi testified that he entered § 87(2)(b)'s apartment because a dispatcher assignment involving an emotionally disturbed person is a priority, and because he wanted to make sure that there was no one else at risk inside the apartment. He explained that there is an increased risk of harm when there is someone in an apartment "who is not in a right state of mind." PO Schiraldi never testified to having obtained any information during the incident which indicated that anyone other than § 87(2)(b) was present in the apartment. PO Pedersen testified that he entered the apartment because he wanted to make sure that § 87(2)(b) was "all right" and would not harm anyone. PO Pedersen confirmed that there was no additional reason that he suspected that § 87(2)(b) may not have been "all right" or that § 87(2)(b) could have harmed someone, beyond the observations in PO Pedersen's above-described testimony.

PO Pedersen's and PO Schiraldi's BWC footage shows that PO Schiraldi waited in the hallway for approximately 32 seconds after § 87(2)(b) opened § 87(2)(b)'s apartment door and stepped inside. PO Schiraldi asked § 87(2)(b) what was going on, but § 87(2)(b) did not audibly respond. As § 87(2)(b) stepped further into the apartment, PO Schiraldi asked, "Do you live here?" but § 87(2)(b) did not verbally respond. PO Schiraldi stepped into the apartment and spoke to § 87(2)(b). Approximately ten seconds later, PO Pedersen followed PO Schiraldi into the apartment.

PO Schiraldi's footage, beginning at 00:00, shows that § 87(2)(b) knocked on the apartment door briefly before simply turning the doorknob and opening the door. In the footage, she does not use a key or otherwise unlock the door.

§ 87(2)(b)'s cellphone footage (**Board Review 01**) did not begin until the moment PO Schiraldi stepped into § 87(2)(b)'s apartment.

§ 87(2)(g)
[REDACTED]
[REDACTED].

Officers may enter a residence absent consent or a warrant in order to render emergency aid. Brigham City v. Stuart, 547 U.S. 398 (2006) (**Board Review 10**). Officers must demonstrate a reasonable belief that entry is necessary to render emergency assistance to an injured occupant or to protect an occupant from imminent injury. People v. Ringel, 145 A.D.32 1041 (2nd Dept., 2016) (**Board Review 11**).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED].

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (**Board Review 12**).
- PO Pedersen has been a member of service for eight years and has been subject in one CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(g)
- PO Schiraldi has been a member of service for four years and has been a subject in two complaints and two allegations, neither of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 24, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 13**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 5

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date